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8
9 **BEFORE THE**
DIRECTOR OF THE OFFICE OF REAL ESTATE APPRAISERS
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. C120508-01

12 **MARTIN ESQUEDA**
13 **29476 Mariners Way**
14 **Lake Elsinore, CA 92530**

A C C U S A T I O N

15 **Residential Appraiser License No. AL036421**

16 Respondent.

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18 Complainant alleges:

19 **PARTIES**

20 1. Elizabeth Seaters, acting on behalf of the Office of Real Estate Appraisers
21 (Complainant), brings this Accusation solely in her official capacity as Chief of Enforcement for
22 Complainant.

23 2. On or about May 3, 2006, the Director of the Office of Real Estate Appraisers issued
24 Residential Appraiser License Number 036421 to Martin Esqueda (Respondent). The Appraiser
25 License was in full force and effect at all times relevant to the charges brought herein and will
26 expire on February 15, 2013, unless renewed.
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JURISDICTION

3. This Accusation is brought before the Director of the Office of Real Estate Appraisers (Director), under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 11313 of the Code requires the Office of Real Estate Appraisers (OREA) to adopt and enforce rules and regulations as are determined reasonably necessary to carry out the purposes of the Real Estate Appraisers' law.

5. Section 11314 of the Code requires OREA to include in its regulations requirements for the licensure and discipline of real estate appraisers.

6. Section 11316 of the Code allows OREA to fine a licensee for violations of the Code and/or OREA regulations.

STATUTORY PROVISIONS

7. Business and Professions Code section 11328 states:

To substantiate documentation of appraisal experience, or to facilitate the investigation of illegal or unethical activities by a licensee, applicant, or other person acting in a capacity that requires a license, that licensee, applicant, or person shall, upon the request of the director, submit copies of appraisals, or any work product which is addressed by the Uniform Standards of Professional Appraisal Practice, and all supporting documentation and data to the office. This material shall be confidential in accordance with the confidentiality provisions of the Uniform Standards of Professional Appraisal Practice.

REGULATORY PROVISIONS

8. The OREA regulations, as amended from time to time, appear in Title 10, Chapter 6.5, section 3500, et seq., of the California Code of Regulations (Regulation).

9. Regulation 3721 provides, in pertinent part, that the Director of OREA may issue a citation, order of abatement, assess a fine or private or public reproof, suspend or revoke a license of any person who has violated any provision of USPAP or Real Estate Appraisers' Licensing and Certification Law or done any act involving dishonesty, fraud or deceit with the intent to benefit himself or another, or to injure another.

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1 **COST RECOVERY**

2 10. Section 11409(a) of the Code provides that any order issued in resolution of a
3 disciplinary proceeding may direct a licensee found to have committed a violation or violations of
4 statutes or regulations relating to real estate appraiser practice to pay a sum not to exceed the
5 reasonable costs of investigation, enforcement, and prosecution of the case.

6 **CAUSE FOR DISCIPLINE**

7 **(Failure to Provide Appraisal Reports during the course of an Investigation.)**

8 11. Respondent is subject to disciplinary action under Code section 11328 and Regulation
9 section 3721, in that he failed to provide true copies of appraisal reports and supporting
10 documentation when requested by the Office of Real Estate Appraisers in the course of an
11 investigation. The circumstances are as follows:

12 a. On or about June 14, 2012, a demand letter was sent to Respondent's address of
13 record, 29476 Mariners Way, Lake Elsinore, California. The letter requested a copy of
14 Respondent's appraisal report and corresponding work file for a property Respondent had
15 appraised located at 4945 N. Stoddard Avenue, San Bernardino, California 92407. The demand
16 letter advised Respondent that in accordance with Code section 11328, Respondent was required
17 to provide the Office of Real Estate Appraisers copies of the appraisal report and work file.

18 b. On June 20, 2012 Respondent sent a letter to the Office of Real Estate
19 Appraisers explaining that he no longer worked as an appraiser and did not intend to renew his
20 license. Respondent did not provide the Office of Real Estate Appraisers with a copy of the
21 appraisal report and corresponding work file for the property that Respondent had appraised
22 located at 4945 N. Stoddard Avenue, San Bernardino, California 92407, as had previously been
23 requested by the Office of Real Estate Appraisers.

24 c. Office of Real Estate Appraisers investigators attempted to contact Respondent
25 via telephone on August 1, 2012, and again on August 12, 2012 but were unable to contact
26 Respondent on either occasion.

27 d. On August 10, 2012 a final demand letter was sent by the Office of Real Estate
28 Appraisers to Respondent's address of record again demanding a copy of the appraisal report and

1 corresponding work file for the property that Respondent had appraised at 4945 N. Stoddard
2 Avenue, San Bernardino, California 92407. Respondent failed to answer the offices repeated
3 requests for information.

4 **PRAYER**

5 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
6 and that following the hearing, the Director of the Office of Real Estate Appraisers issue a
7 decision:

8 1. Revoking or suspending Real Estate Appraiser License Number 036421, issued to
9 Martin Esqueda;

10 2. Ordering Martin Esqueda to pay the Director of the Office of Real Estate Appraisers
11 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and
12 Professions Code section 11409;

13 3. Ordering Martin Esqueda to pay the Director of the Office of Real Estate Appraisers a
14 fine pursuant to Business and Professions Code section 11316; and

15 4. Taking such other and further action as deemed necessary and proper.
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18 DATED: 10/23/12

Original Signed

19 ELIZABETH SEATERS
20 Chief of Enforcement
21 Office of Real Estate Appraisers
State of California
Complainant

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